

Remarks/ Arguments

1. Objections: 35 USC 112 (indefinite claim language)

In the last office action (3/15/2005) prior to the non-compliant amendment, the examiner properly held the claims indefinite, due to % weight as lacking specificity. All the claims [2-11,13,22] have been amended to indicate % wt of "total composition" which corresponds to the description in the original specification. Secondly, the broad range and limited range within each claim was also held indefinite and this has been deleted from all respective claims. We have consolidated the combination of target ranges into a new single dependent claim #22.

2. Rejections: Prior Art 35 USC 103(a)/ 102(b)

In the last office action, the examiner properly rejected the claims due to prior art 103(a) / 102 (b). For this reason, we are narrowing the scope of the independent claim (Claim 1). Claim 1 has been narrowed in scope enough to overcome all of the previously stated 102 (b) rejections. Claim 23 (new) has been further added to narrow the scope of the composition, without the required component of turmeric but containing garlic AND blackwalnut \pm wormwood AND at least one from the Markush group [indentation d], being either one or more herbal-anti inflammatory agent(s) OR anti-bacterial agent(s), along with the carrier and optionally niacin.

The only listed prior art rejection 102(b) that could stand against claim 33, is that which is described by Kimura [JP356071022A]. Indeed, Kimura does demonstrate a poultice drug to be applied for pain and rheumatism, by kneading and compounding garlic, wormwood, moxa (which is further defined as small combustible masses used to produce an eschar by being burned in contact with the skin termed "moxibustion") and are made up of wormwood further classified under various forms of artemisia such as A. moxa, A. Chinensis), egg white and flour. The invention described by Kimura appears to be a specific closed-end combination of these ingredients. Similarly, Kimura does not specifically demonstrate a composition as in the newly amended claims: which describes wormwood \pm black walnut, garlic + turmeric \pm antibacterial/anti-inflammatory agents. Further, Kimuras invention teaches a composition for the purpose to treat muscle/bone pain and injury as opposed to a condition of the present invention, which is specifically to treat a condition involving auto-immune disease, inflammatory dry skin disease or skin infections. And, for those reasons there is a divergence from the garlic/wormwood combination based formulations.